

Order

Michigan Supreme Court
Lansing, Michigan

May 16, 2008

Clifford W. Taylor,
Chief Justice

134798 &(72)

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman,
Justices

DEPARTMENT OF TRANSPORTATION,
Plaintiff-Appellee,

v

SC: 134798
COA: 272560
Wayne CC: 04-430645-ND

INITIAL TRANSPORT, INC., and EMPLOYERS
MUTUAL INSURANCE COMPANY,
Defendants-Appellants,
and

GREAT WEST CASUALTY COMPANY and
KIRK NATIONAL LEASING COMPANY, a/k/a
KIRK NATIONALEASE COMPANY,
Defendants.

On May 7, 2008, the Court heard oral argument on the application for leave to appeal the July 26, 2007 judgment of the Court of Appeals. On order of the Court, the application is again considered. MCR 7.302(G)(1). In lieu of granting leave to appeal, we REVERSE in part the judgment of the Court of Appeals, for the reasons stated in the Court of Appeals dissenting opinion. The Motor Carrier Safety Act at MCL 480.11a did not create an exception to the \$1 million cap on property damages established by the Michigan no-fault act in MCL 500.3121(5). We REMAND this case to the Wayne Circuit Court for further proceedings regarding the defendant Employers Mutual Casualty Company's penalty interest payment obligation, as unanimously ordered by the Court of Appeals. *Dep't of Transportation v North Central Cooperative, LLC*, 277 Mich App 633 (2008), which relied on the decision of the Court of Appeals in this case, is overruled. The motion by the Insurance Institute of Michigan for leave to file a brief *amicus curiae* is GRANTED.

CAVANAGH and KELLY, JJ., would grant leave to appeal.

WEAVER, J., dissents and states as follows:

I dissent from the peremptory order reversing the judgment of the Court of Appeals for the reasons stated in the Court of Appeals opinion. I would deny leave to appeal.



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I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

May 16, 2008

Corbin R. Davis

Clerk